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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/764,740  
Filing Date: January 26, 2004  
Appellant(s): CONNELLY, MICHAEL P.

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John M. Dahl  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 03/17/2008 appealing from the Office action mailed 06/18/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2003/0073491	Hecht et al	4-2003
2003/0130020	Bates et al	6-2003
6,416,411	Tsukahara	7-2002

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 21 and 22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Re claims 21 and 22: these claims contain new matters not described in the specification.

The limitations “audio module further operable to stop presentation of the audio track between reel spins while maintaining audio track rhythm over multiple reel spins” in lines 6-7 and 3-4 of both claims 21 and 22 respectively were introduced in the amendments to both claims without having a prior description in the specification. The Examiner

interprets the stop while maintaining rhythm as a method when the volume is reduced and not heard by the player of the game while the rhythm itself is still going on but just not audible.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4-10, 12-18, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hecht et al (US 2003/0073491).

Re claim 1: Hecht et al discloses a computerized gaming system, comprising: a gaming module (10a), comprising a processor (38) and gaming code (72) which is operable when executed on the processor (38) to conduct a reel slot machine wagering game on which monetary value can be wagered (see fig.1a, 2, and 3; par. [0038]; and par. [0055], lines 5-8); and an audio module / *sound card* (42), the audio module operable to play an audio track / *music, sound files* during reel spins, the audio module (42) further operable to maintain audio track rhythm over multiple reel spins (see fig.3; par. [0047]; and par. [0054], lines 3-9).

Re claim 2: Hecht et al discloses the computerized gaming system wherein the audio module / *sound card* (42) is operable to maintain audio track / *music, sound files* rhythm

over multiple reel spins by playing a track / *music, sound files* continuously and by further fading in the track in conjunction with a spinning reel and by fading out the track in conjunction with a stopped reel (see **fig.3**; **par. [0047]**; **par. [0054]**, lines 3-9; **par. [0067]**, lines 7-9; and **par. [0075]**, lines 10-12).

Re claim 4: Hecht et al discloses the computerized gaming system wherein the audio module / *sound card* (42) is operable to maintain audio track rhythm over multiple reel spins by playing the track / *music, sound files* from a point calculated / *sound-causing event* to maintain rhythm from a previous reel spin upon initiation of reel spin (see **par. [0054]**, lines 3-9).

Re claim 5: Hecht et al disclose the computerized gaming system wherein the reels (34) are video representations of reels (34) on a video slot machine (see **fig.1a**; **par. [0037]**, lines 7-11).

Re claim 6: Hecht et al disclose the computerized gaming system wherein the reels (34) are mechanical reels under the control of the computerized gaming system (see **fig.1a**; **par. [0036]**, lines 5-9).

Re claim 7: Hecht et al discloses the computerized gaming system wherein the audio module / *sound card* (42) is operable to maintain audio track / *music, sound files* rhythm over multiple reel spins by playing a track / *music, sound files* continuously and by

further fading in the track in conjunction with a spinning reel and by fading the track to a reduced volume in conjunction with a stopped reel (see **fig.3; par. [0047]; par. [0052], lines 1-4; par. [0054], and lines 3-9).**

Re claim 8: Hecht et al discloses the computerized gaming system wherein the audio module (42) is further operable to play at least one additional audio track in rhythm with the audio track / *sound file* played during reel (34) spin (see **fig.4; par. [0070], lines 4-7).**

Re claim 9: Hecht et al discloses a method of operating a computerized gaming system, comprising: playing an audio track / *music, sound files* during reel spins of a reel slot machine game (10a) via an audio module / *sound card* (42), the audio module (42) further operable to maintain audio track rhythm over multiple reel spins (see **fig.1a and 3; par. [0047]; and par. [0054], lines 3-9)** and wherein the reel slot machine game comprises a game upon which monetary value can be wagered (see **par. [0055], lines 5-8).**

Re claim 10: Hecht et al discloses the method wherein the audio module / *sound card* (42) is operable to maintain audio track / *music, sound files* rhythm over multiple reel spins by playing a track / *music, sound files* continuously and by further fading in the track in conjunction with a spinning reel and by fading out the track in conjunction with a stopped reel (see **fig.3; par. [0047]; par. [0054], lines 3-9; and par. [0067], lines 7-9).**

Re claim 12: Hecht et al discloses the method wherein the audio module / *sound card* (42) is operable to maintain audio track rhythm over multiple reel spins by playing the track / *music, sound files* from a point calculated / *sound-causing event* to maintain rhythm from a previous reel spin upon initiation of reel spin (see par. [0054], lines 3-9).

Re claim 13: Hecht et al disclose the method wherein the reels (34) are video representations of reels (34) on a video slot machine (see par. [0037], lines 7-11).

Re claim 14: Hecht et al disclose the method wherein the reels (34) are mechanical reels under the control of the computerized gaming system (see fig.1a; par. [0036], lines 5-9).

Re claim 15: Hecht et al discloses the method wherein the audio module / *sound card* (42) is operable to maintain audio track / *music, sound files* rhythm over multiple reel spins by playing a track / *music, sound files* continuously and by further fading in the track in conjunction with a spinning reel and by fading the track to a reduced volume in conjunction with a stopped reel (see fig.3; par. [0047]; par. [0052], lines 1-4; par. [0054], and lines 3-9).

Re claim 16: Hecht et al discloses the method wherein the audio module (42) is further operable to play at least one additional audio track in rhythm with the audio track / *sound file* played during reel (34) spin (see fig.4; par. [0070], lines 4-7).



Re claim 17: Hecht et al discloses a computerized gaming system, comprising: a gaming module (10a), comprising a processor (38) and gaming code (72) which is operable when executed on the processor (38) to conduct a reel slot machine wagering game on which monetary value can be wagered (see fig.1a, 2, and 3; par. [0038]; and par. [0055], lines 5-8); and an audio module / *sound card* (42), the audio module operable to play an audio track / *music, sound files* during reel spins at a louder volume level and to play the audio track at a quieter or muted volume level when the reels are not spinning, the audio module (42) further operable to maintain audio track rhythm over multiple reel spins (see fig.3; par. [0047]; par. [0052], lines 1-4; par. [0054], lines 3-9; and par. [0067], lines 7-9).

Re claim 18: Hecht et al discloses the computerized gaming system wherein the audio track / *sound files* comprises multiple audio element tracks / *sound files, musical sound recordings, sound effect recordings* (see par. [0048]), and wherein only select / *certain* audio element tracks / *sounds, music* are played on each reel spin (see par. [0010], lines 9-13).

Re claim 20: Hecht et al discloses a machine-readable medium / *memory storage devices* with instructions stored thereon (see par. [0011], lines 5-6), the instructions when executed operable to cause a computerized gaming system to: conduct a reel slot machine wagering game upon which monetary value can be wagered (see fig.1a, 2, and 3; par. [0038]; and par. [0055], lines 5-8); and play an audio track during reel

spins at a louder volume level and to play the audio track at a quieter or a muted volume level when the reels are not spinning, the audio module further operable to maintain audio track rhythm over multiple reel spins (see **fig.3; par. [0047]; par. [0052], lines 1-4; par. [0054], lines 3-9; and par. [0067], lines 7-9).**

Re claim 21: Hecht et al discloses a computerized gaming system, comprising: a gaming module (10a), comprising a processor (38) and gaming code (72) which is operable when executed on the processor (38) to conduct a reel slot machine wagering game on which monetary value can be wagered (see **fig.1a, 2, and 3; par. [0038]; and par. [0055], lines 5-8**); and an audio module / *sound card* (42), the audio module operable to play an audio track / *music, sound files* during reel spins, the audio module (42) further operable to stop presentation of the audio track between reel spins while maintaining audio track rhythm over multiple reel spins (see **fig.3; par. [0047]; par. [0054], lines 3-9; and par. [0075], lines 10-12**). **It is apparent to Examiner that when the volume of the track is reduced completely, it appears that the audio track has stopped whereas the rhythm is still going on and just not audible enough to be heard.**

Re claim 22: Hecht et al discloses a method of operating a computerized gaming system, comprising: playing an audio track / *music, sound files* during reel spins of a reel slot machine game (10a) via an audio module / *sound card* (42), the audio module (42) further operable to stop presentation of the audio track between reel spins while

maintaining audio track rhythm over multiple reel spins (see fig.1a and 3; par. [0047]; and par. [0054], lines 3-9) and wherein the reel slot machine game comprises a game upon which monetary value can be wagered (see par. [0055], lines 5-8; and par. [0075], lines 10-12). It is apparent to Examiner that when the volume of the track is reduced completely, it appears that the audio track has stopped whereas the rhythm is still going on and just not audible enough to be heard.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hecht et al (US 2003/0073491) in view of Bates et al (US 2003,0130020). The teachings of Hecht et al have been discussed above.

Re claim 3: Hecht et al teach the computerized gaming system comprising an audio module / *sound card* (42).

However, Hecht et al fails to teach the computerized gaming system wherein the audio module is further operable to loop play the continuous track such that rhythm of the track is maintained.

Bates et al teaches the computerized gaming system wherein the audio module (305) is further operable to loop play the continuous track / *sound* such that rhythm of the track is

maintained (**see fig.3; par. [0023], lines 10-12**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the computerized gaming system an audio module further operable to loop play the continuous track such that rhythm of the track is maintained, so as to prevent the player from getting bored by attracting the attention of the players of the gaming system, thereby increasing the players enjoyment of the gaming system.

Re claim 11: Hecht et al teach the method of operating a computerized gaming system comprising an audio module / *sound card* (42).

However, Hecht et al fails to teach the method wherein the audio module is further operable to loop play the continuous track such that rhythm of the track is maintained.

Bates et al teaches the method wherein the audio module (305) is further operable to loop play the continuous track / *sound* such that rhythm of the track is maintained (**see fig.3; par. [0023], lines 10-12**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the computerized gaming system an audio module further operable to loop play the continuous track such that rhythm of the track is maintained, so as to prevent the player from getting bored by attracting the attention of the players of the gaming system, thereby increasing the players enjoyment of the gaming system.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hecht et al (US 2003/0073491) in view of Tsukahara (US 6,416,411). The teachings of Hecht et al have been discussed above.

Re claim 19: Hecht et al teach the computerized gaming system with reel spin (**see par. [0054], lines8-9**).

However, Hecht et al fails to teach the computerized gaming system wherein at least one of the selected audio element tracks played on each reel spin is randomly selected for each reel spin.

Tsukahara teaches the computerized gaming system wherein at least one of the selected audio element tracks played on each reel spin is randomly selected for each reel spin (**see col.10, lines 5-9**).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the computerized gaming system a random selection of audio element tracks for each reel spin so that the player do not loose pleasure in the game by hearing the audio tracks in the same sequence every time; including the random audio track selection increases the players appeal in the computerized gaming system thereby increasing the players enjoyment of the gaming system.

#### **(10) Response to Argument**

The Appellant has argued the rejections as presented by the Examiner on various interpretations, these interpretations are grounded in over looking the details of the Appellant's claims and the teachings of the prior art.

##### **A. Appellant argues on the Applicable Law**

The Examiner responds that;

1-6. the rational basis as to why the disclosure does not teach the limitation of stop

presentation by audio module. The Examiner understands the “stop presentation” as being known to one of ordinary skills; however the disclosure doesn’t teach or explain how this is done by the audio module. The manner and process of making and using the claimed invention is clearly explained or taught by the disclosure. The appellant new limitation of audio module performing stop presentation is known, but it is not known how the process is carried out, which is also not taught by the disclosure.

**B. Appellant argues on the Examiner's rejection under 35 USC 112, first paragraph**

Appellant contends that the rejection of claims 21 and 22 under 35 USC 112 should be removed because the applicable laws on enablement are not supported in the rejection.

The Examiner points out that the 35 USC 112 rejection was made based on the new matter and limitation introduced in the amendment and not based on the language itself. The Examiner understands that the “stop presentation” limitation as the volume being reduced and not heard by the player, however the specification does not support the limitation of the “audio module” performing the function of “stop presentation” as introduced in the amendment. The Examiner notes that the rejection is geared more towards the new matter introduced and not how the introduced limitation is carried out.

**C&D. Appellant argues that claims 1,2,4-10,12-18, and 20 are not anticipated by Hecht et al**

Appellant contends and argues that Hecht et al does not teach or suggest maintaining continuous audio rhythm over multiple reel spins.

The Examiner disagrees with this suggestion and argument. Although Examiner agrees

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that the Appellant's noted portion of Hecht et al in par.[0084], it states that the sound file is reset, the Examiner points out that the noted paragraph teaches another embodiment of Hecht et al's invention. The Examiner points out that according to par.[0080] of Hecht et al, there is no modification of the sound file and therefore there's a continuously maintained audio rhythm which teaches the Appellant's claimed limitation. Examiner also in addition to this, points that Bates et al teaches this feature of maintaining audio track rhythm in the 35 USC 103 rejection of claim 3.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/A. O. T./

Examiner, Art Unit 3714

Conferees:

/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714

/Xuan M. Thai/

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